HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

Writ Appeal No.223 of 2007

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Between:

Basireddy Neelakanta Reddy …Appellant.

And

Government of Andhra Pradesh,
represented by its District Collector,
Kadapa and others.

…Respondents.

:: J U D G M E N T ::

Counsel for the appellant : Sri V.R. Reddy Kovvuri

16th March, 2007

Per G.S. SINGHVI, C.J.

This is an appeal for setting aside order dated 3-12-2006 passed

by the learned Single Judge whereby he dismissed the writ petition filed by the appellant for quashing possession certificate dated 30-8-2006 issued by Mandal Revenue Officer, C.K.Dinne Mandal, Kadapa District in favour of respondent No.4 – Palem Venkat Rao.

The appellant claims to have purchased the land measuring Ac.1-28 cts. comprised in Survey No.862/5 situated in C.K. Dinne Village and Mandal, Kadapa District from Shri Putluru Narayana Reddy by registered sale-deed dated 3-12-2003 and got the mutation effected in his name. Revenue Divisional Officer, Kadapa (respondent No.2) and respondent No.3 are also said to have issued Pattadar Pass Book and title deeds in his favour under the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short, 'the Act').

After about nine months, respondent No.4 submitted an application dated 10-9-2004 to respondent No.3 for correction of entries made in the Record of Rights and also for issue of Pattadar Pass Books and title deeds in his favour by claiming that the land in question belongs to his ancestors and he is in peaceful possession. Respondent No.3 issued notice dated 20-9-2004 to the petitioner, Putluru Narayana Reddy and respondent No.4, but no further action appears to have been taken by him. This prompted respondent No.4 to file Writ Petition No.21628 of 2004 for issue of a mandamus to respondent No.3 to decide his application. The same was disposed of by a learned Single Judge of this Court in the following terms:

> "The petitioner gave representation to the third respondent dated 10-9-2004 but the third respondent has not passed any orders.
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> The learned counsel for the petitioner contended that due to inaction of the third respondent, the present writ petition is filed.
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> The learned counsel for the petitioner has relied upon a decision reported in 2001 (4) ALT 337 (Division Bench) – R.S.Murthy v. Joint Collector, East Godavari Dist. Kakinada,

wherein under such circumstances, the Division Bench directed the Mandal Revenue Officer to pass appropriate orders in accordance with law after giving an opportunity of hearing to both parties.

Therefore, following the judgment, the Mandal Revenue Officer is directed to pass appropriate orders after giving reasonable opportunity to hear the petitioner as well as the respondents 4 and 5 within eight weeks from the date of receipt of a copy of this order.

The writ petition is disposed of. No costs."

In the purported compliance of the direction given by the Court, respondent No.3 disposed of the application of respondent No.4 by recording the following endorsement dated 29-8-2005:

"ENDORSEMENT

To the Owners of the Margin

Palem Venkata Subbaiah has applied for issuance of Pattadar Pass Book and Title Deeds in his favour with respect to the land in an extent of Ac.1-28 cents in Sy.No.862/5. But, the land in the above Sy.No. belongs to Sri Putluru Narayana Reddy and his ancestors as per the Village records i.e. 10(1) Adangal and he was also granted Pattadar Pass Book and Title Deeds with respect to the land in above Sy.No. It is hereby notified that the land in above Sy.No. It is hereby notified that the land in above Sy.No. is patta land. Therefore, the applicants has to approach the Civil Court to resolve the dispute if they have any.

Mandal Revenue Officer,
Chintakomma Dinne Mandal"

In view of the above reproduced endorsement, respondent No.4 filed a suit for declaration and permanent injunction in the Court of Junior Civil Judge, Kadapa impleading the appellant and Shri Putluru Narayana Reddy as defendants. He reiterated the claim made in the application dated 10-9-2004. The suit filed by respondent No.4 stands registered as O.S.No.993 of 2006.

During the pendency of the suit, respondent No.4 appears to have made an application to respondent No.3 to certify his possession over the land in dispute and the latter issued certificate dated 30-8-2006 in the following terms:

"**POSSESSION CERTIFICATE**

This is to certify that Sri Palem Venkata Rao, S/o.Palem Narasimhulu is in physical possession and enjoyment of land in Sy.No.862/5 an extent of Ac.1.28 cents of C.K. Dinne (Mandal & Village) which is private patta land that he levelled the land and even plotted it by boundary stones and laid internal roads for each plot.

MANDAL REVENUE OFFICER
CHINTHAKOMMA DINNE"

The appellant questioned the possession certificate in Writ Petition No.22846 of 2006, which was dismissed by the learned Single Judge with the following observations:

"…… As per Section 8 (2) of A.P. Rights in Land and Pattadar Pass Books Act, 1971 (the Ct, for brevity), the record of rights or the presumption that goes with the PPBs and title deed under the provisions of the Act are always subservient to the decree of the civil court. When the fourth respondent has already filed the suit for declaration of title, the possession certificate issued by the third respondent on
30-8-2006 has to be independently considered by the civil court. Further the presumption of title contained in Section 6-A of the Act is rebuttable. The initial burden to prove the title and a case for perpetual injunction lies on the fourth respondent and the petitioner has to lead rebuttable evidence. While doing so, the possession certificate does not in any manner come in the way of the petitioner and the writ petition is misconceived. Liberty is given to the petitioner to approach the civil court and raise all grounds in the suit filed by the fourth respondent. The observations made in this order should not in any manner influence the judicial process before the civil court."

Shri V.R. Reddy Kovvuri, learned counsel for the appellant

argued that his client was compelled to seek a declaration of invalidity of the possession certificate issued in favour of respondent No.4 because the latter is likely to use the same in the proceedings of the civil suit pending in the Court of Junior Civil Judge, Kadapa and the learned Single Judge gravely erred by declining to quash the possession certificate on the spacious ground that the same does not affect his client.

Learned counsel emphasised that the possession certificate has been issued by respondent No.3 with a view to create evidence in favour of respondent No.4 and, therefore, the same is liable to be quashed.

We have considered the arguments/submissions of the learned counsel, but have not felt impressed. In our opinion, the learned Single Judge rightly declined to entertain the appellant's prayer on the premise that the possession certificate issued in favour of respondent No.4 is not conclusive of his right over the land in dispute. There cannot be any doubt that respondent No.4 will have to produce substantive evidence in the pending suit to prove his ownership over the land and then only he will be able to persuade the trial court to entertain his prayer for grant of a declaration that the land in question belongs to him. The possession certificate issued by respondent No.3 may, at best, be used for showing that the land is presently occupied by respondent No.4 and nothing more. Therefore, the same is not going to prejudice the cause of the appellant in the pending civil suit.

As a corollary to the above, we hold that the order under challenge does not suffer from any infirmity warranting interference under Clause 15 of the Letters Patent.

For the reasons stated above, the appeal is dismissed.

As a sequel to dismissal of the appeal, WAMP No.418 of 2007 filed by the appellant for interim relief is disposed of as infructuous.

G.S.SINGHVI, C.J.

16th March, 2007

C.V.NAGARJUNA REDDY, J.

svs